



**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF

**Jeannella McArthur,
Complainant**

and

**Henderson Carter,
Respondent**

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**CHARGE NO.: 1999 CF 2191
EEOC NO.: 21B991518
ALS NO.: 11186**

RECOMMENDED ORDER AND DECISION

This matter is before me on review of the record upon the *pro se* Respondent's oral motion to dismiss the complaint because of the Complainant's failure to prosecute her complaint. Because the record indicates that Complainant has exhibited no interest in pursuing her complaint, it is now recommended that the motion be granted and this complaint be dismissed for lack of prosecution.

The Department of Human Rights filed the complaint in this case on February 15, 2000. Complainant did not appear at the initial status hearing of April 18, 2000 and Respondent appeared *pro se*. The first verified answer of Respondent was mistakenly filed at the Department on May 17, 2000. A second unverified answer to the complaint was filed by Respondent on August 2, 2000. Verification was filed on October 30, 2000.

Neither party has filed a request for discovery in this case. Complainant has not appeared on any date for which this case was scheduled on the motion docket of the Commission, including those held on April 18, 2000, June 14, 2000, July 19, 2000, August 10, 2000, September 21, 2000 and November 9, 2000. Prior to the September 21, 2000 hearing, it was discovered that some of the notices regarding this case might have been sent to the wrong

address. However, all of the material in the file was then sent to the reportedly correct address and Complainant still did not appear on November 9, 2000. Further there is no indication in the record that Complainant has ever inquired at the Commission about the status of her case.

I find that the case should be dismissed because of the failure of Complainant to take action in support of prosecuting it in accord with the authority granted to the Commission in the Illinois Human Rights Act, 775 ILCS 5/8A-102(I)(6).

Findings of Fact

1. Respondent, represented by counsel, was properly served with notice of this matter and filed his verified answer in accord with the orders of the Commission.

2. Complainant has not entered an appearance either *pro se* or through counsel, and has never appeared on any occasion when her case was on the docket of the Commission. There is no evidence in the record that Complainant has made any inquiry about her case since May 17, 2000.

Conclusions of Law

1. Complainant is an “aggrieved party” and Respondent is an “employer” as those terms are defined by the Illinois Human Rights Act, 775 ILCS 5/1-103(B) and 5/2-101(B), respectively.

2. The Commission has jurisdiction over the parties and the subject matter of this action.

3. The Commission is authorized to dismiss complaints with prejudice due to “the failure of a party to prosecute his or her case ...” Illinois Human Rights Act, 775 ILCS 5/8A-102(I)(6).

4. Because Complainant has failed to take any action with regard to this case since

May 17, 2000, there has been a failure “to prosecute his or her case” on the part of Complainant, thereby requiring dismissal of the complaint with prejudice.

Discussion

It is a fundamental principle governing practice before this Commission that it is the singular responsibility of complainants to diligently pursue disposition of the cases once they are docketed with the Commission. In this case, Complainant has not participated in the prosecution of the case in any fashion since the complaint was filed. Because of the passage of time with no effective action on the part of Complainant, it is recommended that this case now be dismissed because of the failure of Complainant to prosecute her case.

Recommendation

It is recommended that Respondent’s Motion be granted and this case be dismissed with prejudice pursuant to the authority granted to the Commission in the Illinois Human Rights Act at 775 ILCS 5/8A-102(I)(6).

HUMAN RIGHTS COMMISSION

ENTERED:

January 8, 2001

BY: _____

DAVID J. BRENT
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION